



# Mike Baird MP

## Premier of NSW

### Minister for Infrastructure

### Minister for Western Sydney

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## MEDIA RELEASE

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### GOVERNMENT TIGHTENS BAIL LAWS

The NSW Government will introduce changes to the Bail Act, ensuring that those who pose an unacceptable risk to the community will no longer be eligible for bail, NSW Premier Mike Baird and Attorney General Brad Hazzard announced today.

The changes also include a new onus on those accused of the most serious offences to show why their detention in custody is not justified.

The enhancements to the State's bail laws follow community concerns and the completion of an independent review by former NSW Attorney General John Hatzistergos.

"A new risk-based model for bail was introduced earlier this year following concerns the old system was overly complicated and not working well," said Mr Baird.

"While the model remains sound, the review has recommended important changes, particularly where serious offences are concerned.

"The Government places community safety above all other considerations, and will immediately implement all of Mr Hatzistergos's recommendations."

Amendments to the Bail Act recommended by Mr Hatzistergos -- who is now a barrister and an Adjunct Professor at UTS -- will be introduced in the current session of Parliament.

Key changes include:

- Under a revised test, an accused who is assessed as an "unacceptable risk" will be refused bail;
- In the case of serious offences, the onus will be on the accused to "show cause" that their detention in custody is not justified;
- In addition to meeting the "show cause requirement", a serious offender still will not be granted bail if found to be an unacceptable risk;
- New risk factors will be included in bail assessment including whether the accused has organised crime associations, victims' views on their safety and the accused's history of compliance on "conditional liberty" such as bail or parole;
- The common law presumption of innocence will be acknowledged in a Preamble to the Act, rather than as a "purpose" of the Act, and will be supplemented with other

- considerations, including protection of the community and protecting the integrity of the justice system;
- It will be made clear in legislation that the existence of the new Bail Act by itself is not a “change of circumstances” sufficient to trigger a review of a previous bail decision.

The changes are modelled on Victorian and Queensland Acts, both of which have risk assessment models.

The amended Act will define “serious offences” according to a range of features of the alleged offence, including that it involved one of the following: the sexual assault of a child; use of a firearm; manufacture or supply of commercial quantities of a prohibited drug; serious personal violence; that the alleged offence was committed while the accused was on bail or parole; or that the alleged offence carries a potential life sentence.

Mr Hazzard said, “These are commonsense changes that should reassure the community that the new bail laws are doing precisely what they were intended to do, which is to place the potential risk to the community posed by an accused offender front and centre of the justice system.

“The existing system will not be diluted. It will be enhanced by these changes.

“Under the changes recommended by Mr Hatzistergos, there has been a recalibration of unacceptable risk. Where the consequences of the risk are significant, they are given greater weight, even where the likelihood of the risk materialising may be small.

“The assessment of ‘unacceptable risk’ will now include any conditions that could be placed on an accused offender’s bail – meaning bail will be refused in cases where unacceptable risk is determined.

“I thank Mr Hatzistergos for his excellent work. I have asked him to continue to monitor the operations of the Bail Act and provide a further report next June, and he has accepted.”

The Hatzistergos review can be found at: <https://www.nsw.gov.au/news> .

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